

IN THE UNITED STATES DISTRICT COURT FOR THE ~~FILED~~  
EASTERN DISTRICT OF OKLAHOMA

OCT 9 2009

EZEKIEL DAVIS,

)

WILLIAM G. RUTHRIE  
Clerk, U.S. District Court  
By \_\_\_\_\_  
Deputy Clerk

Plaintiff,

)

v.

)

JUSTIN JONES, et al.,

)

Defendants.

)

No. CIV 09-092-Raw-SPS

OPINION AND ORDER

DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed a second motion requesting appointment of counsel [Docket #44]. He still bears the burden of convincing the court that his claim has sufficient merit to warrant granting the request. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court again has reviewed the merits of plaintiff's claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After careful review, the court finds this second motion is essentially the same as plaintiff's first motion for appointment of counsel [Docket #39], and appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995). ACCORDINGLY, plaintiff's motion [Docket #44] is DENIED.

IT IS SO ORDERED this 9<sup>th</sup> day of October 2009.

  
RONALD A. WHITE  
UNITED STATES DISTRICT JUDGE